

APPENDIX A

Final Rules

Part 1 of Title 47 of the Code of Federal Regulations is revised to read as follows:

1. The authority citation for Part 1 continues to read as follows:

Authority: 47 U.S.C. 151, 154(i), 154(j), 155, 225, 303(r), 309 and 325(e).

2. Amend § 1.913 by revising paragraphs (a)(2) and (b)(2) to read as follows:

§ 1.913 Application forms; electronic and manual filing.

(a) * * *

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(2) FCC Form 602, Wireless Radio Services Ownership Form. FCC Form 602 is used by applicants and licensees in auctionable services to provide and update ownership information as required by §§ 1.919, 1.948, 1.2112 of this part, and any other section that requires the submission of such information.

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(b) * * *

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(2) Any associated documents (see § 1.2112 of this part) submitted with an application must be uploaded as attachments to the application whenever possible. The attachment should be uploaded via ULS in Adobe Acrobat Portable Document Format (PDF) whenever possible.

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3. Amend § 1.919 by revising paragraphs (a), (b) introductory text, and (e) to read as follows:

§ 1.919 Ownership information.

(a) Applicants or licensees in Wireless Radio Services that are subject to the ownership reporting requirements of § 1.2112 of this part shall use FCC Form 602 to provide all ownership information required by the chapter.

(b) Any applicant or licensee that is subject to the ownership reporting requirements of § 1.2112 of this

part shall file an FCC Form 602, or file an updated form if the ownership information on a previously filed FCC Form 602 is not current, at the time it submits:

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(e) Applicants or licensees in Wireless Radio Services that are not subject to the ownership reporting requirements of § 1.2112 of this part are not required to file FCC Form 602. However, such applicants and licensees may be required by the rules applicable to such services to disclose the real party (or parties) in interest to the application, including (as required) a complete disclosure of the identity and relationship of those persons or entities directly or indirectly owning or controlling (or both) the applicant or licensee.

4. Amend § 1.948 by revising paragraph (c) introductory text to read as follows:

§ 1.948 Assignment of authorization or transfer of control, notification of consummation.

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(c) **Application required.** In the case of an assignment of authorization or transfer of control, the assignor must file an application for approval of the assignment on FCC Form 603. If the assignee or transferee is subject to the ownership reporting requirements of § 1.2112, the assignee or transferee must also file an updated FCC Form 602 or certify that a current FCC Form 602 is on file.

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5. Amend § 1.2103 by revising paragraph (a)(4) to read as follows:

§ 1.2103 Competitive bidding design options.

(a) * * *

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(4) Combinatorial (package) bidding auctions.

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6. Amend § 1.2104 by adding new paragraph (g)(3) to read as follows:

§ 1.2104 Competitive bidding mechanisms.

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(g) * * *

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(3) Default or disqualification in combinatorial bidding auctions after close of auction. A bidder assumes a binding obligation to pay its full bid amount upon acceptance of the high bid at the close of an auction. As specified below, when the Commission conducts a combinatorial bidding auction pursuant to § 1.2103 (a)(4), if a high bidder defaults or is disqualified after close of a combinatorial bidding auction, the defaulting bidder will be subject to a default payment. The default payment consists of a deficiency portion and an additional payment. The deficiency portion of the default payment shall be calculated as set forth in § 1.2104(g)(3)(i). The additional payment shall be calculated as set forth in § 1.2104(g)(3)(ii).

(i) Deficiency Payment. The deficiency portion of the default payment shall be calculated as set forth below. In the case that any of the relevant bids are subject to bidding credits, the default payment will be adjusted in an analogous manner to that used in § 1.2104(g)(1).

(a) Where a defaulting bidder won licenses individually (i.e., not as part of a package), and in a subsequent auction the licenses are also won individually, the deficiency portion will be calculated on a license-by-license basis (i.e., the differences between the amounts originally bid and the amounts subsequently bid will not be aggregated to determine a net amount owed). If the subsequent winning bid(s) exceed the defaulted bid(s), no deficiency portion will be assessed. Even in the absence of a deficiency portion, however, an additional 25% payment will be due.

(b) Where a defaulting bidder won licenses in a package(s), and in a subsequent auction the licenses are won either in the same package(s), or in smaller packages or as individual licenses that correlate to the defaulted package(s), the deficiency portion will be determined on a package-by-package basis, and the differences between the amount originally bid and the amount(s) subsequently bid will not be aggregated to determine a net amount owed. Thus, in this situation, the deficiency portion will be calculated in an

analogous manner to that used in § 1.2104(g)(2). However, with regard to each individual package, where the licenses are subsequently sold individually or as part of smaller packages, the amounts received in the subsequent auction will be aggregated in order to determine any deficiency.

(c) Where a defaulting bidder or bidders won licenses either individually or as part of packages, and in a subsequent auction the licenses are won as larger packages or different packages (not including the situation described in paragraph (b)), the deficiency portion will be calculated by subtracting the aggregate amount originally bid for the licenses from the aggregate amount bid in the subsequent auction for the licenses.

(d) When in the situation described in paragraph (c), there are multiple defaulting bidders, the default payment (both the deficiency portion and the additional amount portion) will be allocated to the defaulting bidders in proportion to the amount they originally bid.

Example: Bidder 1 defaults on Package ABC for \$200, and Bidder 2 defaults on Package DE for \$400, and in a subsequent auction the licenses are won in Package AB for \$150 and Package CDE for \$350, Bidder 1 would be liable for 1/3 of the default payment and Bidder 2 would be responsible for 2/3. The total default payment would be equal to the difference between the total of the original bids (\$600) and the total of the subsequent amounts bid (\$500) plus an additional amount of 25 percent of the total of the subsequent amounts bid. The total default payment therefore would equal \$100 (\$600-\$500) plus 25 percent of \$500 (\$125), for a total default payment of \$225.

(ii) Additional Payment. If a high bidder defaults or is disqualified after the close of such an auction, the defaulting bidder will be subject to the payment in paragraph (g)(3)(i) of this section plus an additional payment equal to 25 percent of the subsequent winning bid(s) or the defaulting bid(s), whichever is less. In the case that either the subsequent winning bid(s) or the defaulting bid(s) is subject to bidding credits, the additional payment will be calculated in an analogous manner to that used in § 1.2104(g)(2). In calculating the additional payment to determine whether the defaulted bid(s) or the subsequent winning bid(s) is the lesser amount, the defaulted and subsequent bid(s) will be compared according to the rules

set forth in paragraphs (g)(3)(i)(a) through (d) of this section for calculation of the deficiency portion of the default payment.

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7. Amend § 1.2109 by revising paragraphs (b) and (c) to read as follows:

§ 1.2109 License grant, denial, default, and disqualification.

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(b) If a winning bidder withdraws its bid after the Commission has declared competitive bidding closed or fails to remit the required down payment within ten (10) business days after the Commission has declared competitive bidding closed, the bidder will be deemed to have defaulted, its application will be dismissed, and it will be liable for the default payment specified in §§ 1.2104(g)(2) or 1.2104(g)(3), whichever is applicable. In such event, the Commission, at its discretion, may either re-auction the license(s) to existing or new applicants or offer it to the other highest bidders (in descending order) at their final bids. If the license(s) is offered to the other highest bidders (in descending order), the down payment obligations set forth in § 1.2107(b) will apply. However, in combinatorial bidding auctions, the Commission will only re-auction the license(s) to existing or new applicants. The Commission will not offer the package or licenses to the next highest bidder.

(c) A winning bidder who is found unqualified to be a licensee, fails to remit the balance of its winning bid in a timely manner, or defaults or is disqualified for any reason after having made the required down payment, will be deemed to have defaulted, its application will be dismissed, and it will be liable for the payment set forth in §§ 1.2104(g)(2) or 1.2104(g)(3), whichever is applicable. In such event, the Commission may either re-auction the license(s) to existing or new applicants or offer it to the other highest bidders (in descending order) at their final bids. However, in combinatorial bidding auctions, the Commission will only re-auction the license(s) to existing or new applicants. The Commission will not offer the package or licenses to the next highest bidder.

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8. Amend § 1.2110 by revising paragraphs (b)(1)(i), (b)(1)(ii), (b)(3)(i) and (c)(2)(ii)(F), and adding new paragraphs (b)(3)(iii) and (c)(6) to read as follows:

§ 1.2110 Designated entities.

* * * * *

(b) * * *

(1) * * *

(i) The gross revenues of the applicant (or licensee), its affiliates, its controlling interests, and the affiliates of the applicant's controlling interests shall be attributed to the applicant and considered on a cumulative basis and aggregated for purposes of determining whether the applicant (or licensee) is eligible for status as a small business, very small business, or entrepreneur, as those terms are defined in the service-specific rules. An applicant seeking status as a small business, very small business, or entrepreneur, as those terms are defined in the service-specific rules, must disclose on its short- and long-form applications, separately and in the aggregate, the gross revenues of the applicant (or licensee), its affiliates, its controlling interests, and the affiliates of the applicant's controlling interests for each of the previous three years.

(ii) If applicable, pursuant to § 24.709, the total assets of the applicant (or licensee), its affiliates, its controlling interests and affiliates of the applicant's controlling interests shall be attributed to the applicant and considered on a cumulative basis and aggregated for purposes of determining whether the applicant (or licensee) is eligible for status as an entrepreneur. An applicant seeking status as an entrepreneur must disclose on its short- and long-form applications, separately and in the aggregate, the gross revenues of the applicant (or licensee), its affiliates, its controlling interests and affiliates of the applicant's controlling interests for each of the previous two years.

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(3) * * *

(i) Consortium. Where an applicant (or licensee) is a consortium of small businesses, very small

businesses, or entrepreneurs, as those terms are defined in the service-specific rules, the gross revenues of each consortium member shall not be aggregated. Each consortium member must constitute a separate and distinct legal entity to qualify.

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(iii) Rural telephone cooperatives.

(a) An applicant will be exempt from § 1.2110(c)(2)(ii)(F) for the purpose of attribution in § 1.2110(b)(1), if the applicant or a controlling interest in the applicant, as the case may be, meets all of the following conditions: (1) the applicant (or the controlling interest) is organized as a cooperative pursuant to state law; (2) the applicant (or the controlling interest) is a "rural telephone company" as defined by the Communications Act; and (3) the applicant (or the controlling interest) is eligible for tax-exempt status under the Internal Revenue Code. The applicant will not be exempt from § 1.2110(c)(2)(ii)(F) for the purpose of attribution in § 1.2110(b)(1) if the gross revenues or other financial and management resources of the affiliates of the applicant's officers and directors (or the controlling interest's officers and directors) are available to the applicant.

(b) However, if the applicant is not an eligible rural telephone cooperative under subsection (a), and the applicant has a controlling interest other than the applicant's officers and directors or an eligible rural telephone cooperative's officers and directors, subsection (a) applies with respect to the applicant's officers and directors and such controlling interest's officers and directors only when such controlling interest is either: (i) an eligible rural telephone cooperative under subsection (a) or (ii) controlled by an eligible rural telephone cooperative under subsection (a).

(c) * * *

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(2) * * *

(ii) * * *

(F) Officers and directors of the applicant shall be considered to have a controlling interest in the

applicant. The officers and directors of an entity that controls a licensee or applicant shall be considered to have a controlling interest in the licensee or applicant. The personal net worth, including personal income of the officers and directors of an applicant, are not attributed to the applicant. To the extent that the officers and directors of an applicant are affiliates of other entities, the gross revenues of the other entities are attributed to the applicant.

* * * * *

(6) Consortium. A consortium of small businesses, very small businesses, or entrepreneurs is a conglomerate organization composed of two or more entities, each of which individually satisfies the definition of a small business, very small business, or entrepreneur, as those terms are defined in the service-specific rules. Each individual member must constitute a separate and distinct legal entity to qualify.

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9. Revise § 1.2112 to read as follows:

§ 1.2112 Ownership disclosure requirements for applications.

(a) Each application to participate in competitive bidding (i.e., short-form application (see 47 CFR 1.2105)), or for a license, authorization, assignment, or transfer of control shall fully disclose the following:

- (1) List the real party or parties in interest in the applicant or application, including a complete disclosure of the identity and relationship of those persons or entities directly or indirectly owning or controlling (or both) the applicant;
- (2) List the name, address, and citizenship of any party holding 10 percent or more of stock in the applicant, whether voting or nonvoting, common or preferred, including the specific amount of the interest or percentage held;
- (3) List, in the case of a limited partnership, the name, address and citizenship of each limited partner whose interest in the applicant is 10 percent or greater (as calculated according to the percentage of

equity paid in or the percentage of distribution of profits and losses);

(4) List, in the case of a general partnership, the name, address and citizenship of each partner, and the share or interest participation in the partnership;

(5) List, in the case of a limited liability company, the name, address, and citizenship of each of its members whose interest in the applicant is 10 percent or greater;

(6) List all parties holding indirect ownership interests in the applicant as determined by successive multiplication of the ownership percentages for each link in the vertical ownership chain, that equals 10 percent or more of the applicant, except that if the ownership percentage for an interest in any link in the chain exceeds 50 percent or represents actual control, it shall be treated and reported as if it were a 100 percent interest; and

(7) List any FCC-regulated entity or applicant for an FCC license, in which the applicant or any of the parties identified in paragraphs (a)(1) through (5) of this section, owns 10 percent or more of stock, whether voting or nonvoting, common or preferred. This list must include a description of each such entity's principal business and a description of each such entity's relationship to the applicant (e.g., Company A owns 10 percent of Company B (the applicant) and 10 percent of Company C, then Companies A and C must be listed on Company B's application, where C is an FCC licensee and/or license applicant).

(b) Designated Entity Status: In addition to the information required under paragraph (a) of this section, each applicant claiming eligibility for small business provisions shall disclose the following:

(1) On its application to participate in competitive bidding (i.e., short-form application (see 47 CFR 1.2105)):

(i) List the names, addresses, and citizenship of all officers, directors, affiliates, and other controlling interests of the applicant, as described in § 1.2110, and, if a consortium of small businesses or consortium of very small businesses, the members of the conglomerate organization;

(ii) List any FCC-regulated entity or applicant for an FCC license, in which any controlling interest of

the applicant owns a 10 percent or greater interest or a total of 10 percent or more of any class of stock, warrants, options or debt securities. This list must include a description of each such entity's principal business and a description of each such entity's relationship to the applicant; and

(iii) List separately and in the aggregate the gross revenues, computed in accordance with § 1.2110, for each of the following: the applicant, its affiliates, its controlling interests, and affiliates of its controlling interests; and if a consortium of small businesses, the members comprising the consortium.

(2) As an exhibit to its application for a license, authorization, assignment, or transfer of control:

(i) List the names, addresses, and citizenship of all officers, directors, and other controlling interests of the applicant, as described in § 1.2110;

(ii) List any FCC-regulated entity or applicant for an FCC license, in which any controlling interest of the applicant owns a 10 percent or greater interest or a total of 10 percent or more of any class of stock, warrants, options or debt securities. This list must include a description of each such entity's principal business and a description of each such entity's relationship to the applicant;

(iii) List and summarize all agreements or instruments (with appropriate references to specific provisions in the text of such agreements and instruments) that support the applicant's eligibility as a small business under the applicable designated entity provisions, including the establishment of de facto or de jure control; such agreements and instruments include articles of incorporation and bylaws, shareholder agreements, voting or other trust agreements, franchise agreements, and any other relevant agreements (including letters of intent), oral or written;

(iv) List and summarize any investor protection agreements, including rights of first refusal, supermajority clauses, options, veto rights, and rights to hire and fire employees and to appoint members to boards of directors or management committees;

(v) List separately and in the aggregate the gross revenues, computed in accordance with § 1.2110, for each of the following: the applicant, its affiliates, its controlling interests, and affiliates of its controlling interests; and if a consortium of small businesses, the members comprising the consortium; and

(vi) List and summarize, if seeking the exemption for rural telephone cooperatives pursuant to § 1.2110, all documentation to establish eligibility pursuant to the four factors listed under § 1.2110(b)(3)(iii).

10. Amend § 21.930 by revising paragraph (d)(2)(i) to read as follows:

§ 21.930 Five-year build-out requirements.

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(d) * * *

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(2) * * *

(i) The competitive bidding procedures set forth in §§ 21.950 to 21.960 shall be followed by applicants seeking authority to provide MDS service to the unserved partitioned area.

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11. Revise § 21.954 to read as follows:

§ 21.954 Submission of upfront payments.

Applicants who are small businesses eligible for reduced upfront payments will be required to submit an upfront payment amount in accordance with § 21.960(d).

12. Amend § 21.956 by revising paragraphs (b)(2) and (b)(3) to read as follows:

§ 21.956 Filing of long-form applications or statements of intention.

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(b) * * *

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(2) an exhibit detailing the terms and conditions and parties involved in any bidding consortia, joint venture, partnership or other agreement or arrangement the winning bidder had entered into relating to the competitive bidding process prior to the time bidding was completed (see 47 CFR 1.2107(d));

(3) An exhibit complying with §§ 1.2110(j) of this chapter and 21.960(f), if the winning bidder submitting the long-form application or statement of intention claims status as a designated entity.

* * * * *

13. Amend § 21.960 by redesignating paragraphs (a), (b), (c), (d), (e), and (f) as paragraphs (b), (c), (d), (e), (f), and (g), and adding new paragraph (a) to read as follows:

§ 21.960 Designated entity provisions for MDS.

- (a) Eligibility for small business provisions. A small business is an entity that together with its affiliates has average annual gross revenues that are not more than \$40 million for the preceding three calendar years.

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§ 21.961 [Removed and Reserved]

14. Remove and reserve § 21.961.

15. Revise § 22.217 to read as follows:

§ 22.217 Bidding credit for small businesses.

A winning bidder that qualifies as a small business, as defined in § 22.223(b)(1), or a consortium of small businesses may use a bidding credit of thirty- five (35) percent to lower the cost of its winning bid. A winning bidder that qualifies as a small business, as defined in § 22.223(b)(2), or consortium of small businesses may use a bidding credit of twenty-five (25) percent to lower the cost of its winning bid.

16. Revise § 22.223 to read as follows:

§ 22.223 Designated entities.

- (a) Scope. The definitions in this section apply to §§ 22.201 through 22.227, unless otherwise specified in those sections.

- (b) A small business is an entity that either:

- (1) Together with its affiliates and controlling interests has average gross revenues that are not more than \$3 million for the preceding three years; or
- (2) Together with its affiliates and controlling interests has average gross revenues that are not more than \$15 million for the preceding three years.

17. Amend § 22.225 by redesignating paragraphs (b) and (c) as paragraphs (a) and (b), and revising newly redesignated paragraph (b) to read as follows:

§ 22.225 Records maintenance and definitions.

* * * * *

(b) Definition. The term small business used in this section is defined in § 22.223.

18. Amend § 22.229 by removing paragraphs (a)(4) and (a)(5) and revising paragraph (b) to read as follows:

§ 22.229 Designated entities.

* * * * *

(b) Bidding credits. A winning bidder that qualifies as a very small business, as defined in this section, or a consortium of very small businesses may use the bidding credit specified in § 1.2110(f)(2)(i) of this chapter. A winning bidder that qualifies as a small business, as defined in this section, or a consortium of small businesses may use the bidding credit specified in § 1.2110(f)(2)(ii) of this chapter. A winning bidder that qualifies as an entrepreneur, as defined in this section, or a consortium of entrepreneurs may use the bidding credit specified in § 1.2110(f)(2)(iii) of this chapter.

19. Amend § 24.321 by removing paragraph (a)(3) and revising paragraphs (b) and (c) to read as follows:

§ 24.321 Designated entities.

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(b) Bidding credits. After August 7, 2000, a winning bidder that qualifies as a small business, as defined in this section, or a consortium of small businesses may use the bidding credit specified in § 1.2110(f)(2)(iii) of this chapter. A winning bidder that qualifies as a very small business, as defined in this section, or a consortium of very small businesses may use the bidding credit specified in § 1.2110(f)(2)(ii) of this chapter.

(c) Installment payments. Small businesses that are winning bidders on any regional license prior to August 7, 2000 will be eligible to pay the full amount of their winning bids in installments over the term of the license pursuant to the terms set forth in § 1.2110(g) of this chapter.

20. Amend § 24.709 by redesignating paragraphs (c)(1)(ii)(C), (c)(1)(ii)(D), (c)(1)(ii)(E) and (c)(1)(ii)(F) as (c)(1)(ii)(B), (c)(1)(ii)(C), (c)(1)(ii)(D) and (c)(1)(ii)(E), and revising paragraphs (b)(1)(v)(A)(3) introductory text, (b)(1)(v)(A)(3)(iv), (b)(1)(vi)(A)(3) introductory text, (b)(1)(vi)(A)(3)(iv), (c)(1)(ii)(C), (c)(1)(ii)(F)(1), (c)(1)(ii)(F)(2), (c)(3), and (d) to read as follows:

§ 24.709 Eligibility for licenses for frequency Blocks C or F.

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(b) * * *

(1) * * *

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(v) * * *

(A) * * *

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(3) The remaining 10 percent of the applicant's (or licensee's) total equity may be owned, either unconditionally or in the form of stock options, by any of the following entities, which may not comply with § 24.720(g)(1):

* * * * *

(iv) Qualifying investors, as specified in § 24.720(g)(3).

* * * * *

(vi) * * *

(A) * * *

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(3) The remaining 20.1 percent of the applicant's (or licensee's) total equity may be owned by qualifying

investors, either unconditionally or in the form of stock options not subject to the restrictions of paragraph (b)(1)(vi)(A)(1) of this section, or by any of the following entities which may not comply with § 24.720(g)(1):

* * * * *

(iv) Qualifying investors, as specified in § 24.720(g)(3).

* * * * *

(c) * * *

(1) * * *

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(ii) * * *

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(C) The identity of each affiliate of the applicant and each affiliate of individuals or entities identified pursuant to paragraphs (C)(1)(ii)(A) and (c)(1)(ii)(B) of this section;

* * * * *

(E) * * *

(1) A certified statement that such applicant complies with the requirements of the definition of publicly traded corporation with widely disbursed voting power set forth in § 24.720(f);

(2) The identity of each affiliate of the applicant.

* * * * *

(3) Records maintenance. All applicants, including those that are winning bidders, shall maintain at their principal place of business an updated file of ownership, revenue and asset information, including those documents referenced in paragraphs (c)(2)(ii) and (c)(2)(iii) of this section and any other documents necessary to establish eligibility under this section and any other documents necessary to establish eligibility under this section or under the definition of small business. Licensees (and their successors in interest) shall maintain such files for the term of the license. Applicants that do not obtain the license(s)

for which they applied shall maintain such files until the grant of such license(s) is final, or one year from the date of the filing of their short-form application (Form 175), whichever is earlier.

(d) Definitions. The terms control group, existing investor, institutional investor, nonattributable equity, preexisting entity, publicly traded corporation with widely dispersed voting power, qualifying investor, and small business used in this section are defined in § 24.720.

§ 24.711 [Amended]

21. Amend § 24.711 by replacing the reference to “section 1.2110(o)” in paragraph (a) with “section 1.2110(n).”

22. Amend § 24.712 by revising paragraphs (a) and (b) to read as follows:

§ 24.712 Bidding credits for licenses won for frequency Block C.

(a) Except with respect to licenses won in closed bidding in auctions that begin after March 23, 1999, a winning bidder that qualifies as a small business, as defined in § 24.720(b)(1), or a consortium of small businesses may use a bidding credit of fifteen percent, as specified in § 1.2110(f)(2)(iii) of this chapter, to lower the cost of its winning bid.

(b) Except with respect to licenses won in closed bidding in auctions that begin after March 23, 1999, a winning bidder that qualifies as a very small business, as defined in § 24.720(b)(2), or a consortium of very small businesses may use a bidding credit of twenty-five percent as specified in § 1.2110(f)(2)(ii) of this chapter, to lower the cost of its winning bid.

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§ 24.714 [Amended]

23. Amend § 24.714 by replacing the reference to “The Bureau” in paragraph (c)(2)(iii) with “The Commission.”

§ 24.716 [Amended]

24. Amend § 24.716 by replacing all references to “section 1.2110(o)” in paragraphs (a) and (b) with “section 1.2110(n).”

25. Revise § 24.717 to read as follows:

§ 24.717 Bidding credits for licenses for frequency Block F.

(a) Except with respect to licenses won in closed bidding in auctions that begin after March 23, 1999, a winning bidder that qualifies as a small business, as defined in § 24.720(b)(1), or a consortium of small businesses may use a bidding credit of fifteen percent, as specified in § 1.2110(f)(2)(iii) of this chapter, to lower the cost of its winning bid.

(b) Except with respect to licenses won in closed bidding in auctions that begin after March 23, 1999, a winning bidder that qualifies as a very small business, as defined in § 24.720(b)(2), or a consortium of very small businesses may use a bidding credit of twenty-five percent as specified in § 1.2110(f)(2)(ii) of this chapter, to lower the cost of its winning bid.

26. Amend § 24.720 by removing paragraphs (b)(3), (b)(4), and (i)(2), redesignating paragraphs (e), (f), (g), (h), (i), and (j) as paragraphs (c), (d), (e), (f), (g), and (h), and revising paragraphs (b) introductory text, newly redesignated (g) introductory text, and newly redesignated (g)(2) to read as follows:

§ 24.720 Definitions.

* * * * *

(b) Small and very small business.

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(g) Qualifying Investor.

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(2) For purposes of assessing compliance with the minimum equity requirements of § 24.709(b)(1)(v) and (b)(1)(vi), where such equity interests are not held directly in the applicant, interests held by qualifying investors shall be determined by successive multiplication of the ownership percentages for each link in the vertical ownership chain.

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27. Amend § 27.210 by revising paragraph (b) to read as follows:

§ 27.210 Definitions.

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(b) Small and very small business.

(1) A small business is an entity that, together with its affiliates and controlling interests, has average annual gross revenues that are not more than \$40 million for the preceding three years.

(2) A very small business is an entity that, together with its affiliates and controlling interests, has average annual gross revenues that are not more than \$15 million for the preceding three years.

§ 27.501 746-764 MHz and 776-794 MHz bands subject to competitive bidding.

28. Revise § 27.501 to read as follows:

Mutually exclusive initial applications for licenses in the 746-764 MHz and 776-794 MHz bands are subject to competitive bidding. The general competitive bidding procedures set forth in part 1, subpart Q of this chapter will apply unless otherwise provided in this subpart.

§ 27.502 [Amended]

29. Amend § 27.502 by removing paragraph (c).

30. Amend § 27.702 by removing paragraph (a)(4) and revising paragraph (b) to read as follows:

§ 27.702 Designated entities.

* * * * *

(b) Bidding credits. A winning bidder that qualifies as an entrepreneur, as defined in this section, or a consortium of entrepreneurs may use the bidding credit specified in § 1.2110(f)(2)(i) of this chapter. A winning bidder that qualifies as a very small business, as defined in this section, or a consortium of very small businesses may use the bidding credit specified in § 1.2110(f)(2)(ii) of this chapter. A winning bidder that qualifies as a small business, as defined in this section, or a consortium of small businesses may use the bidding credit specified in § 1.2110(f)(2)(iii) of this chapter.

31. Amend § 27.807 by removing paragraphs (a)(3) and (a)(4) and revising paragraph (b) to read as follows:

§ 27.807 Designated entities.

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(b) **Bidding credits.** A winning bidder that qualifies as a very small business, as defined in this section, or a consortium of very small businesses may use the bidding credit specified in § 1.2110(f)(2)(ii) of this chapter. A winning bidder that qualifies as a small business, as defined in this section, or a consortium of small businesses may use the bidding credit specified in § 1.2110(f)(2)(iii) of this chapter.

32. Amend § 27.906 by removing paragraphs (a)(3) and (a)(4), and revising paragraph (b) to read as follows:

§ 27.906 Designated entities.

* * * * *

(b) **Bidding credits.** A winning bidder that qualifies as a very small business, as defined in this section, or a consortium of very small businesses may use the bidding credit specified in § 1.2110(f)(2)(ii) of this chapter. A winning bidder that qualifies as a small business, as defined in this section, or a consortium of small businesses may use the bidding credit specified in § 1.2110(f)(2)(iii) of this chapter.

33. Amend § 27.1006 by removing paragraphs (a)(3) and (a)(4), and revising paragraph (b) to read as follows:

§ 27.1006 Designated entities.

* * * * *

(b) **Bidding credits.** A winning bidder that qualifies as a very small business, as defined in this section, or a consortium of very small businesses may use the bidding credit specified in § 1.2110(f)(2)(ii) of this chapter. A winning bidder that qualifies as a small business, as defined in this section, or a consortium of small businesses may use the bidding credit specified in § 1.2110(f)(2)(iii) of this chapter.

34. Amend § 73.5005 by revising paragraph (a) to read as follows:

§ 73.5005 Filing of long-form applications.

(a) Within thirty (30) days following the close of bidding and notification to the winning bidders, each winning bidder must submit an appropriate long-form application (FCC Form 301, FCC Form 346, FCC

Form 349 or FCC Form 330) for each construction permit or license for which it was the high bidder. Long-form applications filed by winning bidders shall include the exhibits required by § 1.2107(d) (concerning any bidding consortia or joint bidding arrangements); § 1.2110(j) (concerning designated entity status, if applicable); and § 1.2112 (concerning disclosure of ownership and real party in interest information, and, if applicable, disclosure of gross revenue information for small business applicants).

* * * * *

35. Amend § 73.5009 by revising paragraph (b) to read as follows:

§ 73.5009 Assignment or transfer of control.

* * * * *

(b) The ownership disclosure requirements found at § 1.2112(a) of this chapter shall not apply to an applicant seeking consent to assign or transfer control of a broadcast construction permit or license awarded by competitive bidding.

36. Amend § 80.1252 by removing paragraph (b)(3) and revising paragraphs (a) and (c) to read as follows:

§ 80.1252 Designated entities.

(a) This section addresses certain issues concerning designated entities in maritime communications services subject to competitive bidding.

* * * * *

(c) A winning bidder that qualifies as a small business, as defined in § 80.1252(b)(1), or consortium of small businesses may use the bidding credit specified in § 1.2110(f)(2)(ii) of this chapter. A winning bidder that qualifies as a very small business, as defined in § 80.1252(b)(2), or consortium of very small businesses may use the bidding credit specified in § 1.2110(f)(2)(i) of this chapter.

37. Revise § 90.810 to read as follows:

§ 90.810 Bidding credits for small businesses.

A winning bidder that qualifies as a small business, as defined in § 90.814(b)(1), or a consortium of small

businesses may use a bidding credit of 15 percent to lower the cost of its winning bid on any of the blocks identified in § 90.617(d), Table 4B. A winning bidder that qualifies as a small business, as defined in § 90.814(b)(2), or a consortium of small businesses may use a bidding credit of 10 percent to lower the cost of its winning bid on any of the blocks identified in § 90.617(d), Table 4B.

§ 90.813 [Amended]

38. Amend § 90.813 by replacing the reference to “The Bureau” in paragraph (c)(2)(ii) with “The Commission.”

39. Amend § 90.814 by removing paragraph (b)(2), redesignating paragraphs (b)(1)(i) and (b)(1)(ii) as (b)(1) and (b)(2), and revising paragraph (b) introductory text to read as follows:

§ 90.814 Definitions.

* * * * *

(b) A small business is an entity that either:

* * * * *

40. Revise § 90.815 to read as follows:

§ 90.815 Records maintenance and definitions.

(a) Records maintenance. All winning bidders qualifying as small businesses, shall maintain at their principal place of business an updated file of ownership, revenue and asset information, including any documents necessary to establish eligibility as a small business, pursuant to § 90.814, and/or a consortium of small businesses. Licensees (and their successors in interest) shall maintain such files for the term of the license.

(b) Definitions. The term small business used in this section is defined in § 90.814.

41. Amend § 90.901 by revising the section heading to read as follows:

§ 90.901 800 MHz SMR spectrum subject to competitive bidding.

* * * * *

42. Revise § 90.910 to read as follows:

§ 90.910 Bidding credits.

A winning bidder that qualifies as a very small business, as defined in § 90.912(b)(2), or a consortium of very small businesses may use a bidding credit of 35 percent to lower the cost of its winning bid on Spectrum Blocks A through V. A winning bidder that qualifies as a small business, as defined in § 90.912(b)(1), or a consortium of small businesses may use a bidding credit of 25 percent to lower the cost of its winning bid on Spectrum Blocks A through V.

43. Amend § 90.912 by removing paragraphs (b)(3) and (4), and revising paragraph (b) introductory text to read as follows:

§ 90.912 Definitions.

* * * * *

(b) Small and very small businesses.

* * * * *

44. Revise § 90.913 to read as follows:

§ 90.913 Record maintenance and definitions.

(a) Records maintenance. All winning bidders qualifying as small or very small businesses, shall maintain at their principal place of business an updated file of ownership, revenue and asset information, including any document necessary to establish eligibility as a small or very small business, as defined in § 90.912, and/or consortium of small businesses (or consortium of very small businesses). Licensees (and their successors in interest) shall maintain such files for the term of the license.

(b) Definitions. The terms small and very small business used in this section are defined in § 90.912.

45. Revise § 90.1017 to read as follows:

§ 90.1017 Bidding credits for small businesses and very small businesses.

A winning bidder that qualifies as a small business, as defined in § 90.1021(b)(1), or a consortium of small businesses may use a bidding credit of 25 percent to lower the cost of its winning bid. A winning

bidder that qualifies as a very small business, as defined in § 90.1021(b)(2), or a consortium of very small businesses may use a bidding credit of 35 percent to lower the cost of its winning bid.

46. Amend § 90.1021 by removing paragraph (b)(3) and revising (b) introductory text to read as follows:

§ 90.1021 Definitions concerning competitive bidding process.

* * * * *

(b) Small and very small business.

* * * * *

47. Revise § 90.1023 to read as follows:

§ 90.1023 Records maintenance and definitions.

(a) Records maintenance. All winning bidders qualifying as small or very small businesses shall maintain at their principal place of business an updated file of ownership, revenue, and asset information, including any documents necessary to establish eligibility as a small business or very small business, as defined in § 90.1021, and/or consortium of small businesses (or consortium of very small businesses). Licensees (and their successors-in-interest) shall maintain such files for the term of the license. Applicants that do not obtain the license(s) for which they applied shall maintain such files until the grant of such license(s) is final, or one year from the date of the filing of their short-form application (FCC Form 175), whichever is earlier.

(b) Definitions. The terms small and very small business used in this section are defined in § 90.1021.

48. Amend § 90.1103 by removing paragraphs (b)(3) and revising paragraphs (a) and (c) to read as follows:

§ 90.1103 Designated entities.

(a) This section addresses certain issues concerning designated entities in the Location and Monitoring Service (LMS) subject to competitive bidding.

* * * * *

(c) A winning bidder that qualifies as a small business, as defined in paragraph (b)(1) of this section, or a consortium of small businesses may use the bidding credit specified in § 1.2110(f)(2)(ii) of this chapter. A winning bidder that qualifies as a very small businesses, as defined in paragraph (b)(2) of this section, or a consortium of very small businesses may use the bidding credit specified in § 1.2110(f)(2)(i) of this chapter.

49. Amend § 95.816 by removing paragraph (c)(3) and revising paragraph (d) to read as follows:

§ 95.816 Competitive bidding proceedings.

* * * * *

(d) Bidding credits. A winning bidder that qualifies as a small business, as defined in this subsection, or a consortium of small businesses may use the bidding credit specified in § 1.2110(f)(2)(ii) of this chapter. A winning bidder that qualifies as a very small business, as defined in this subsection, or a consortium of very small businesses may use the bidding credit specified in accordance with § 1.2110(f)(2)(i) of this chapter.

* * * * *

50. Amend § 101.538 by removing paragraphs (a)(4) and (a)(5) and revising paragraph (b) to read as follows:

§ 101.538 Designated entities.

* * * * *

(b) Bidding credits. A winning bidder that qualifies as a very small business, as defined in this section, or a consortium of very small businesses may use the bidding credit specified in § 1.2110(f)(2)(i) of this chapter. A winning bidder that qualifies as a small business, as defined in this section, or a consortium of small businesses may use the bidding credit specified in § 1.2110(f)(2)(ii) of this chapter. A winning bidder that qualifies as an entrepreneur, as defined in this section, or a consortium of entrepreneurs may use the bidding credit specified in § 1.2110(f)(2)(iii) of this chapter.

51. Revise § 101.1107 to read as follows:

§ 101.1107 Bidding credits for very small businesses, small businesses and entrepreneurs.

- (a) A winning bidder that qualifies as a very small business, as defined in § 101.1112, or a consortium of very small businesses may use a bidding credit of 45 percent to lower the cost of its winning bid.
- (b) A winning bidder that qualifies as a small business, as defined in § 101.1112, or a consortium of small businesses may use a bidding credit of 35 percent to lower the cost of its winning bid.
- (c) A winning bidder that qualifies as an entrepreneur, as defined in § 101.1112, or a consortium of entrepreneurs may use a bidding credit of 25 percent to lower the cost of its winning bid.
- (d) The bidding credits referenced in paragraphs (a), (b) and (c) of this section are not cumulative.

52. Revise § 101.1109 to read as follows:

§ 101.1109 Records maintenance.

All winning bidders qualifying as very small businesses, small businesses or entrepreneurs shall maintain at their principal place of business an updated file of ownership, revenue, and asset information, including any document necessary to establish eligibility as a very small business, small business or entrepreneur. Licensees (and their successors-in-interest) shall maintain such files for the term of the license. Applicants that do not obtain the license(s) for which they applied shall maintain such files until the grant of such license(s) is final, or one year from the date of the filing of their short-form application (FCC Form 175), whichever is earlier.

§ 101.1112 [Amended]

53. Amend § 101.1112 by removing paragraphs (e) and (f).

§ 101.1209 [Amended]

54. Amend § 101.1209 by removing paragraph (b)(2), and redesignating paragraphs (b)(1)(i) and (b)(1)(ii) as (b)(1) and (b)(2).

55. Amend § 101.1429 by removing paragraphs (a)(4) and (a)(5) and revising paragraph (b) to read as follows:

§ 101.1429 Designated entities.

* * * * *

(b) Bidding credits. A winning bidder that qualifies as a very small business, as defined in this section, or a consortium of very small businesses may use the bidding credit specified in § 1.2110(f)(2)(i) of this chapter. A winning bidder that qualifies as a small business, as defined in this section, or a consortium of small businesses may use the bidding credit specified in § 1.2110(f)(2)(ii) of this chapter. A winning bidder that qualifies as an entrepreneur, as defined in this section, or a consortium of entrepreneurs may use the bidding credit specified in § 1.2110(f)(2)(iii) of this chapter.